

Adopted	Rejected
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## COMMITTEE REPORT

YES:	12
NO:	0

### MR. SPEAKER:

*Your Committee on Interstate and International Cooperation, to which was referred Senate Bill 520, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, line 4, delete "and Related Parts and".
- 2 Page 1, delete line 5.
- 3 Page 1, line 13, delete "certificated" and insert "**certified**".
- 4 Page 2, line 5, delete "certificated" and insert "**certified**".
- 5 Page 2, line 9, after "chapter" insert ",".
- 6 Page 2, line 40, delete "includes" and insert "**applies to**".
- 7 Page 3, line 4, delete "abated" and insert "**abatement**".
- 8 Page 3, between lines 5 and 6, begin a new paragraph and insert:
- 9 "SECTION 2. IC 6-1.1-12.3 IS ADDED TO THE INDIANA CODE
- 10 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 11 JANUARY 1, 2003 (RETROACTIVE)]:
- 12 **Chapter 12.3. Intrastate Aircraft Deduction**
- 13 **Sec. 1. This chapter applies only to the following:**
- 14 **(1) Aircraft that:**
- 15 **(A) have a seating capacity of not less than nine (9)**
- 16 **passengers;**

(B) are used in the air transportation of passengers or passengers and property; and

(C) are owned or operated by a person who is:

(i) an air carrier certified under Federal Aviation Regulation Part 121; or

(ii) a scheduled air taxi operator certified under Federal Aviation Regulation Part 135.

(2) Aircraft that:

(A) are used to transport only property, regardless of whether the aircraft is operated as a common carrier for compensation; and

(B) are owned or operated by a person who is:

(i) an air carrier certified under Federal Aviation Regulation Part 121; or

(ii) a scheduled air taxi operator certified under Federal Aviation Regulation Part 135.

Sec. 2. As used in this chapter "abatement property" refers to aircraft described in section 1 of this chapter.

Sec. 3. As used in this chapter, "aircraft" has the meaning set forth in 49 U.S.C. 40102.

Sec. 4. As used in this chapter, "air transportation" means transportation of passengers or property by aircraft as a common carrier for compensation.

Sec. 5. As used in this chapter, "business entity" refers to a corporation (as defined in IC 6-3-1-10) or partnership (as defined in IC 6-3-1-19).

Sec. 6. As used in this chapter, "intrastate airline service" means service provided in Indiana by an aircraft that is used during a service period in which ground time is determined for purposes of calculating ad valorem property taxes to fly:

(1) either directly:

(A) between:

(i) a qualifying medium hub airport; and

(ii) at least two (2) qualifying underserved airports; or

(B) between:

(i) two (2) qualifying commercial service airports, one (1) of which is not a qualifying underserved airport; or

(ii) a qualifying medium hub airport and a qualifying

1 commercial service airport other than a qualifying  
2 underserved airport; and

3 (2) a route described in subdivision (1)(A) or (1)(B) at least  
4 five (5) times per week in each week during the service period  
5 immediately preceding an assessment date.

6 Sec. 7. As used in this chapter, "qualifying commercial service  
7 airport" means a commercial service airport (as defined in 14 CFR  
8 158.3, as effective January 1, 2003) that is located in Indiana.

9 Sec. 8. As used in this chapter, "qualifying medium hub airport"  
10 means a medium hub airport (as defined in 14 CFR 398.2, as  
11 effective January 1, 2003) that is located in Indiana.

12 Sec. 9. As used in this chapter, "qualifying underserved airport"  
13 means a qualifying commercial service airport that serves a  
14 municipality that is not directly connected by an interstate highway  
15 with a municipality served by a qualifying medium hub airport.

16 Sec. 10. As used in this chapter, "service period" means a period  
17 beginning March 1 in a year immediately preceding an assessment  
18 date and ending on February 28 in the year containing an  
19 assessment date.

20 Sec. 11. As used in this chapter, "taxpayer" means a business  
21 entity that is liable under IC 6-1.1-2-4, as applied under IC 6-1.1-3  
22 or IC 6-1.1-8, for ad valorem property taxes on abatement  
23 property.

24 Sec. 12. A taxpayer is entitled to a deduction from the assessed  
25 value of abatement property that is used to provide intrastate  
26 airline service between locations described in section 6(1)(A) of this  
27 chapter.

28 Sec. 13. A taxpayer is entitled to a deduction from the assessed  
29 value of abatement property used to provide intrastate airline  
30 service between at least two (2) locations described in section  
31 6(1)(B) of this chapter but only if the same or another taxpayer  
32 provides intrastate airline service between locations described in  
33 section 6(1)(A) of this chapter during the same service period.

34 Sec. 14. The deduction applies to ad valorem property taxes  
35 calculated using aircraft ground times. The amount of a deduction  
36 available under section 12 or 13 of this chapter is equal to the  
37 product of:

38 (1) one hundred percent (100%) of the assessed value of the

abatement property; multiplied by  
 (2) with respect to the ground time determined for purposes  
 of calculating ad valorem property taxes for the aircraft, the  
 quotient of:

(A) the ground time that immediately precedes a flight to  
 an Indiana destination; divided by

(B) the total ground time.

**Sec. 15. (a) Any part of an ad valorem property tax assessment  
 attributable to ground times during a week:**

(1) in which the requirements of section 6(2) of this chapter  
 are not met; and

(2) for which noncompliance is not waived under section 16 of  
 this chapter;

may not be deducted under section 12 or 13 of this chapter.

(b) Any part of an ad valorem property tax assessment  
 attributable to ground times during a week in which intrastate air  
 service described in section 6(1)(A) of this chapter is not also  
 available may not be deducted under section 13 of this chapter.

**Sec. 16. Based on:**

(1) extraordinary circumstances that prevent a taxpayer from  
 using abatement property to meet the requirements under  
 section 6(2) of this chapter; or

(2) the start-up of service after the beginning of a service  
 period;

the airport operator of the airports (other than a qualifying  
 medium hub airport) that were directly affected by reduced service  
 may waive compliance with section 6(2) of this chapter during all  
 or part of the period in which the circumstances preventing  
 regular service occurred. A taxpayer shall be treated as in  
 compliance with section 6(2) of this chapter to the extent that  
 compliance with the provision is waived under this section.

**Sec. 17. To qualify for the deduction, the taxpayer must claim  
 the deduction, in the manner prescribed by the department of local  
 government finance, on the taxpayer's personal property tax  
 return filed under IC 6-1.1-3 or IC 6-1.1-8 (or an amended return  
 filed within the time allowed under this article) for the abatement  
 property to which the deduction applies."**

Page 3, line 7, delete "2004]" and insert "2003

1 (RETROACTIVE)]:".

2 Page 4, between lines 18 and 19, begin a new paragraph and insert:

3 "SECTION 4. IC 6-6-6.5-12 IS AMENDED TO READ AS

4 FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]:

5 Sec. 12. (a) Effective January 1, 1976, there is hereby imposed an  
6 annual license excise tax upon taxable aircraft, which tax shall be in  
7 lieu of the ad valorem property tax levied for state or local purposes.  
8 No taxable aircraft shall be assessed as personal property for the  
9 purpose of the assessment and levy of personal property or shall be  
10 subject to ad valorem taxes, beginning with taxes for the year of 1975  
11 payable in 1976 and thereafter.

12 (b) **Eligibility of aircraft for a deduction under IC 6-1.1-12.3**  
13 **does not exempt a taxpayer from the tax imposed under this**  
14 **chapter on the aircraft.**

15 SECTION 5. IC 8-22-3-25, AS AMENDED BY P.L.1-1999,  
16 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 JULY 1, 2003]: Sec. 25. (a) **Subject to subsection (c)**, the board may  
18 provide a cumulative building fund in compliance with IC 6-1.1-41 to  
19 provide for the acquisition of real property, and the construction,  
20 enlarging, improving, remodeling, repairing, or equipping of buildings,  
21 structures, runways, or other facilities for use in connection with the  
22 airport ~~and~~ needed to carry out this chapter **and to facilitate and**  
23 **support commercial intrastate air transportation.**

24 (b) The board may levy in compliance with IC 6-1.1-41 a tax not to  
25 exceed:

26 (1) thirty-three hundredths of one cent (\$0.0033) on each one  
27 hundred dollars (\$100) of assessed value of taxable property  
28 within the district, if an eligible entity other than a city established  
29 the district or if the district was established jointly with an eligible  
30 entity that is not a city;

31 (2) one and thirty-three hundredths cents (\$0.0133) on each one  
32 hundred dollars (\$100) of assessed value of taxable property  
33 within the district, if the authority was established under  
34 IC 19-6-3 (before its repeal on April 1, 1980); and

35 (3) for any other district not described in subdivision (1) or (2),  
36 the following:

37	Total Assessed	Rate Per \$100 Of
38	Property Valuation	Assessed Valuation

1	\$300 million or less	\$0.0167
2	More than \$300 million	
3	but not more than \$450 million	\$0.0133
4	More than \$450 million	
5	but not more than \$600 million	\$0.01
6	More than \$600 million	
7	but not more than \$900 million	\$0.0067
8	More than \$900 million	\$0.0033
9	As the tax is collected it may be invested in negotiable United States	
10	bonds or other securities that the federal government has the direct	
11	obligation to pay. Any of the funds collected that are not invested in	
12	government obligations shall be deposited in accordance with	
13	IC 5-13-6 and shall be withdrawn in the same manner as money is	
14	regularly withdrawn from the general fund but without further or	
15	additional appropriation. The levy authorized by this section is in	
16	addition to the levies authorized by section 11 and section 23 of this	
17	chapter.	
18	<b>(c) Spending under subsection (a) to facilitate and support</b>	
19	<b>commercial intrastate air transportation is subject to a maximum</b>	
20	<b>of one million dollars (\$1,000,000) cumulatively for all years in</b>	
21	<b>which money is spent under that subsection."</b>	
22	Page 4, line 19, delete "[EFFECTIVE JANUARY 1, 2004]" and	
23	insert "[EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)] (a)".	
24	Page 4, line 22, delete "2003." and insert " <b>2002.</b>	
25	<b>(b) Notwithstanding IC 6-6-6.5-14, a taxpayer that, as a result</b>	
26	<b>of the amendment of IC 6-6-6.5-9 by this act, is required to pay in</b>	
27	<b>2003 the tax imposed under IC 6-6-6.5 has until June 16, 2003, to</b>	
28	<b>pay the tax.</b>	
29	<b>(c) This SECTION expires July 1, 2003."</b>	
30	Page 4, line 23, delete "[EFFECTIVE JANUARY 1, 2003	
31	(RETROACTIVE)]" and insert "[EFFECTIVE JANUARY 1, 2002	
32	(RETROACTIVE)] (a) The definitions in IC 6-1.1-1 and	
33	IC 6-1.1-12.2 apply throughout this SECTION.	
34	<b>(b) As used in this SECTION, "designating body" refers to the</b>	
35	<b>metropolitan development commission in a county with a</b>	
36	<b>consolidated city.</b>	
37	<b>(c)".</b>	
38	Page 4, line 24, delete "only".	

Page 4, between lines 26 and 27, begin a new paragraph and insert:

**"(d) The deductions provided by IC 6-1.1-12.2, as added by this act, shall be treated as applying to the assessment of abatement property in 2002 (and ad valorem property taxes on abatement property that are first due and payable in 2003) to the same extent as if IC 6-1.1-12.2, as added by this act, was in effect for calendar year 2002 if, before June 16, 2003, the taxpayer:**

**(1) pays for 2003 the tax imposed under IC 6-6-6.5, as amended by this act, on the abatement property; and**

**(2) claims the deduction against assessed valuation on an amended personal property tax return.**

**An amended personal property tax return filed under this subsection before June 16, 2003, shall be treated as timely filed under IC 6-1.1-3 and IC 6-1.1-8.**

**(e) A deduction granted under subsection (d) for property assessed in a county with a consolidated city is subject to recapture under subsections (f) and (g) if the taxpayer does not maintain a level of operations in the county that equals or exceeds the level of operations conducted in the county by the taxpayer in 2002 for at least ten (10) consecutive years beginning immediately after December 31, 2002.**

**(f) If the designating body determines that the taxpayer has not substantially complied with the requirements of subsection (e) in any year after December 31, 2002, and before January 1, 2013, and that the failure to substantially comply was not caused by factors beyond the control of the taxpayer (such as declines in demand for the property owner's products or services), the designating body shall mail a written notice to the taxpayer. The written notice must include the following provisions:**

**(1) An explanation of the reasons for the designating body's determination.**

**(2) The date, time, and place of a hearing to be conducted by the designating body for the purpose of further considering the taxpayer's compliance with subsection (e). The date of the hearing may not be more than thirty (30) days after the date on which the notice is mailed.**

**The designating body shall also mail a copy of the notice to the department of local government finance.**

(g) On the date specified in the notice described in subsection (f), the designating body shall conduct a hearing for the purpose of further considering the taxpayer's compliance with subsection (e). Based on the information presented at the hearing by the taxpayer and other interested parties, the designating body shall again determine whether the taxpayer has made reasonable efforts to substantially comply with subsection (e) and whether any failure to substantially comply was caused by factors beyond the control of the taxpayer. If the designating body determines that the taxpayer has not made reasonable efforts to comply with subsection (e) and the failure to substantially comply was not caused by factors beyond the control of the taxpayer, the designating body shall adopt a resolution recapturing the taxpayer's deduction under subsection (d). If the designating body adopts a resolution recapturing a deduction under subsection (d), the amount recaptured is equal to the amount determined under STEP FOUR of the following formula:

**STEP ONE:** Determine the assessed value of the abatement property assessed in the county for the assessment dates in 2002 after applying all exemptions and deductions to which the taxpayer was otherwise entitled except the deduction granted under subsection (d).

**STEP TWO:** Divide the assessed value determined under STEP ONE by one hundred.

**STEP THREE:** Multiply the STEP TWO result by the aggregate tax rate certified:

(A) for the taxing district that includes the place where the abatement property was assessed in 2002; and

(B) in the year in which the designating body determines that the taxpayer initially failed to make reasonable efforts to substantially comply subsection (e) and the failure to substantially comply was not caused by factors beyond the control of the taxpayer.

**STEP FOUR:** Multiply the STEP THREE result by:

(A) one hundred percent (100%), if the year determined under STEP THREE (B) is 2003;

(B) ninety percent (90%), if the year determined under STEP THREE (B) is 2004;



(C) eighty percent (80%), if the year determined under STEP THREE (B) is 2005;

(D) seventy percent (70%), if the year determined under STEP THREE (B) is 2006;

(E) sixty percent (60%), if the year determined under STEP THREE (B) is 2007;

(F) fifty percent (50%), if the year determined under STEP THREE (B) is 2008;

(G) forty percent (40%), if the year determined under STEP THREE (B) is 2009;

(H) thirty percent (30%), if the year determined under STEP THREE (B) is 2010;

(I) twenty percent (20%), if the year determined under STEP THREE (B) is 2011;

(J) ten percent (10%), if the year determined under STEP THREE (B) is 2012; and

(K) zero percent (0%), if the year determined under STEP THREE (B) is 2013 or thereafter.

If the designating body adopts a resolution recapturing a deduction under subsection (d), the designating body shall immediately mail a certified copy of the resolution to the taxpayer, the county auditor, the county treasurer, and the department of local government finance. The county treasurer shall immediately mail the taxpayer a statement that reflects the amount due. The amount due is payable on the due date for the next semiannual installment of ad valorem property taxes first due and payable after the date that the statement is mailed to the taxpayer. A delinquency in the repayment of a recaptured amount shall be treated and collected in the same manner as delinquent ad valorem property taxes. Money collected from a recaptured credit shall be distributed among the taxing units in the county in the same manner and in the same proportion as ad valorem property taxes levied by the taxing units.

(h) A taxpayer whose deduction is recaptured by the designating body under subsections (f) and (g) may appeal the designating body's decision by filing a complaint in the office of the clerk of the circuit or superior court of the county together with a bond conditioned to pay the costs of the appeal if the appeal is

1 determined against the taxpayer. An appeal under this subsection  
2 shall be promptly heard by the court without a jury and  
3 determined within thirty (30) days after the time of the filing of the  
4 appeal. The court shall hear evidence on the appeal and may  
5 confirm the action of the designating body or sustain the appeal.  
6 The judgment of the court is final and conclusive unless an appeal  
7 is taken as in other civil actions.

8 (i) The county auditor and the department of local government  
9 finance shall exclude the amount of assessed value allowable as a  
10 deduction under subsection (d) from the assessed value used to  
11 determine property tax rates of political subdivisions for property  
12 taxes first due and payable in 2003 and property tax replacement  
13 distributions to political subdivisions in 2003. The department of  
14 local government finance shall adjust a school corporation's  
15 maximum general fund levy under IC 6-1.1-19-1.5 to eliminate any  
16 reduction in tuition support distributions under IC 21-3-1.7 that  
17 would result from inclusion of the assessed valuation subject to a  
18 deduction under subsection (d) in any year."

19 Renumber all SECTIONS consecutively.

(Reference is to SB 520 as printed February 28, 2003.)

and when so amended that said bill do pass.

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Representative Kromkowski